

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ARCHER AND WHITE SALES, INC.

Plaintiff,

v.

**HENRY SCHEIN, INC., DANAHER
CORPORATION, INSTRUMENTARIUM
DENTAL, INC., DENTAL EQUIPMENT,
LLC, KAVO DENTAL TECHNOLOGIES,
LLC, AND DENTAL IMAGING
TECHNOLOGIES CORPORATION,**

Defendants.

Civil Action No. 2:12-CV-00572-JRG

FIFTH AMENDED DOCKET CONTROL ORDER

It is hereby ORDERED that the following schedule of deadlines is in effect until further order of this Court:

| Date | Event |
|-------------------|---|
| February 3, 2020 | Jury Selection – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap |
| January 22, 2020 | Pretrial Conference – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap |
| January 17, 2020 | The parties shall advise the Court of any agreements reached concerning the Motions in Limine (or other pretrial issues) no later than 1:00 p.m. three (3) business days before the pretrial conference. |
| January 13, 2020 | Hearing on Dkt. No. 228 (Motion to Compel Patterson Companies, Inc. to Produce Investigation Materials and Respond to Interrogatories) and Dkt. No. 298 (Motion to Exclude Testimony of Archer's Expert Witness) |
| January 10, 2020 | Serve and File Pretrial Objections (including objections to exhibit lists, witness lists, deposition designations, and counter-designations) |
| December 30, 2019 | File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a |


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|-------------------|---|
| | notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov . |
| December 30, 2019 | Notify Deputy Clerk in Charge regarding the date and time by which juror questionnaires shall be presented to accompany by jury summons if the Parties desire to avail themselves the benefit of using juror questionnaires |
| December 30, 2019 | File Joint Pretrial Order, Joint Proposed Jury Instructions and Form of the Verdict, Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations. |
| December 23, 2019 | Defendant to Identify and Give Notice of Trial Witnesses |
| December 18, 2019 | Plaintiff to Identify and Give Notice of Trial Witnesses |
| December 18, 2019 | Serve Pretrial Disclosures (including deposition designations and exhibit lists) |

OTHER LIMITATIONS

1. All depositions to be read into evidence as part of the parties' case-in-chief shall be **EDITED** so as to exclude all unnecessary, repetitious, and irrelevant testimony; **ONLY** those portions which are relevant to the issues in controversy shall be read into evidence.
2. The Court will refuse to entertain any motion to compel discovery filed after the date of this Order unless the movant advises the Court within the body of the motion that counsel for the parties have first conferred in a good faith attempt to resolve the matter. See Eastern District of Texas Local Rule CV-7(h).
3. The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:
 - (a) The fact that there are motions for summary judgment or motions to dismiss pending;
 - (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
 - (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.
4. Mediation shall be attended, in person, by named parties (if an individual) or by a fully authorized representative (if not an individual) and by lead counsel. Third party insurance carriers who may be obligated to indemnify a named party and/or who owe a defense to any party shall also attend mediation, in person, by means of a fully authorized representative. Non-compliance with these directives shall be considered an intentional failure to mediate in good faith.

5. Any motion to alter any date on the DCO shall take the form of motion to amend the DCO. The motion to amend the DCO shall include a proposed order that lists all of the remaining dates in one column (as above) and the proposed changes to each date in an additional adjacent column (if there is no change for a date the proposed date column should remain blank or indicate that it is unchanged). In other words, the DCO in the proposed order should be complete such that one can clearly see all the remaining deadlines and the changes, if any, to those deadlines, rather than needing to also refer to an earlier version of the DCO.

So ORDERED and SIGNED this 17th day of December, 2019.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE